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Attorneys for Defendant
ART.COM, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GOTHAM CITY ONLINE, LLC, a Delaware
limited liability company,

Plaintiff,

v.

ART.COM, INC., a Delaware corporation, and
Does 1-50,

Defendant.

Case No. 3:14-cv-00991-JSW

**STIPULATION AND [PROPOSED]
ORDER DISMISSING ACTION**

**AND TERMINATING MOTION TO COMPEL
ARBITRATION**

1 Plaintiff Gotham City Online, LLC (“Gotham”) and Defendant Art.com, Inc. (“Art”), by
2 and through their respective counsel of record, do hereby enter into the following stipulation:

3 WHEREAS, Gotham brought this action, styled *Gotham City Online LLC v. Art.com, Inc.*, Case No. 4:14-cv-00991-JSW, on March 4, 2014 asserting various claims and seeking a temporary restraining order against Art;

4 WHEREAS, on March 5, 2014, Art moved to compel the entire action to arbitration and
5 to disqualify Gotham’s then counsel;

6 WHEREAS, after briefing and oral argument, on March 18, 2014, the Court denied
7 Gotham’s application for temporary restraining order, granted Art’s motion to disqualify, and
8 stayed the action, including the hearing on Art’s motion to compel arbitration, pending
9 appearance of new counsel for Gotham;

10 WHEREAS, Art reserves the right to file a motion for fees and costs Art incurred in
11 connection with its motion to disqualify solely against Gotham’s prior counsel and does not
12 intend to and will not seek such fees and costs incurred in connection with that motion to
13 disqualify from Gotham or its new counsel;

14 WHEREAS, Art has not yet responded to Gotham’s complaint;

15 WHEREAS, the parties have met and conferred and agreed that, to the extent that any
16 claims that gave rise to Gotham’s complaint in this action remain, such claims, and any of Art’s
17 defenses thereto, shall, if necessary after good faith cooperation between the parties is not
18 successful, be decided by the arbitrator(s) in the pending proceeding captioned as: *Art.com v.*
19 *Garriss, Topkins, and Hersh, and Gotham City Online*, AAA Case No. 74 523 Y 120 14 AMCH;

20 NOW, THEREFORE, Gotham and Art hereby stipulate to dismiss this case without
21 prejudice, as follows:

22 1. Gotham’s complaint against Art in this action, and all claims therein, are
23 hereby dismissed **without prejudice.**

24 2. Art reserves its right to seek its fees and costs incurred in connection with
25 its motion to disqualify solely from Gotham’s prior counsel, and Gotham takes no position as to
26 any such effort by Art;

1 3. With the sole exception of Art's reservation of rights to seek fees and
2 costs from Gotham's prior counsel, Gotham and Art shall each bear its own respective fees and
3 costs incurred herein, and both parties waive any rights to appeal from any order entered in this
4 action.

5 DATED: May 6, 2014

KERR & WAGSTAFFE LLP

6 By /s/
7 IVO LABAR
8 ADRIAN J. SAWYER

9 Attorneys for Plaintiff
10 GOTHAM CITY ONLINE, LLC

11 DATED: May 6, 2014

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

12 By /s/
13 CLAUDE M. STERN
14 EVETTE D. PENNYPACKER

15 Attorneys for Defendant
16 ART.COM, INC.

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1
2 **[PROPOSED] ORDER**
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5 Pursuant to the parties' stipulation;
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7 **IT IS SO ORDERED.** The Court terminates the pending motion to compel arbitration.
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10 Dated: May 28, 2014
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12 
13 Honorable Jeffrey S. White
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